

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE PETITION OF EAST</b>	<b>)</b>	<b>DECLARATORY RULING</b>
<b>RIVER ELECTRIC POWER COOPERATIVE,</b>	<b>)</b>	
<b>INC. FOR A DECLARATORY RULING ON 115</b>	<b>)</b>	<b>EL08-020</b>
<b>KV TRANSMISSION LINE DESIGN</b>	<b>)</b>	

On July 7, 2008, East River Electric Power Cooperative, Inc. (East River) filed a request for a declaratory ruling as to whether East River is required to have a siting permit per SDCL 49-41B from the South Dakota Public Utilities Commission (Commission) for a proposed 115 kV Transmission Line. Specifically, East River requests a ruling on whether a 115 kV transmission line generally running parallel to the road right-of-way and designed to site the poles in two locations, i.e., on the private side and on the public side alongside the road right-of-way line, with the poles located to generally touch the road right-of-way, meets the standard of following section lines, property lines, roads, highways or railroads contained in SDCL 49-41B-2.1(2). East River recently filed applications for two such lines: EL08-010 and EL08-016.

On August 25, 2008, the Commission received a Request for Extension from East River. On August 28, 2008, the Commission received Staff's Response to East River's Petition for Declaratory Ruling. At its ad hoc meeting of August 28, 2008, the Commission granted the Request for Extension.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-41B. At its September 9, 2008, meeting, the Commission considered this matter. East River presented additional information on its request for a declaratory ruling. Staff recommended that for a transmission line that runs parallel to section lines, roads or highways for more than a mile on private land, that the word "follows" means that the transmission line must be located in close proximity to the outer edge of the public right-of-way. Staff also recommended that when siting a transmission line to follow a property line that the applicant be required to prove that the construction of a 115 kV transmission line that is not placed on the property line will not pose a threat of serious injury to the social and economic condition of inhabitants in the siting area. Following the presentation, the Commission voted unanimously to find that the Commission does not have siting authority of the 115 kV line in question and with regard to SDCL 49-41B-2.1(2), the word follows means that the line is in close proximity to the outer edge of the public right-of-way. It is therefore

**ORDERED**, that the Commission finds that it does not have siting authority of the 115 kV line in question and with regard to SDCL 49-41B-2.1(2), the word follows means that the line is in close proximity to the outer edge of the public right-of-way.

Dated at Pierre, South Dakota, this 15<sup>th</sup> day of September, 2008.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.

By: *Delaine Kalbo*

Date: *9/16/08*

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Gary Hanson*  
GARY HANSON, Chairman

*Steve Kolbeck*  
STEVE KOLBECK, Commissioner

*Dustin M. Johnson*  
DUSTIN M. JOHNSON, Commissioner